

JASMINA HARSHADBHAI PATEL & ORS
v
MINISTER FOR IMMIGRATION AND BORDER PROTECTION & ANOR
[2015] HCASL 129
S62/2015

- 1 The first applicant, a national of India, applied for a Skilled (Residence) (Class VB) visa. The Migration Review Tribunal affirmed the decision of a delegate of the first respondent to refuse to grant the visa. The Tribunal found that the first applicant had provided an IELTS test report form to demonstrate her competence in English which contained test scores higher than those recorded in the IELTS online verification system used to confirm results of that kind. The Tribunal found the IELTS test report form to be a "bogus document", that phrase being defined in s 97 of the *Migration Act* 1958 (Cth) to include, relevantly, a document reasonably suspected to be a document which purports to have been, but was not, issued in respect of the visa applicant, or a document that is counterfeit or has been altered by a person who does not have authority to do so. The Tribunal concluded that the first applicant's provision of a "bogus document" meant that she had failed to satisfy public interest criterion 4020, which was a requirement for the grant of the visa under cl 885.224 of Sched 2 to the Migration Regulations 1994 (Cth).
- 2 An application for judicial review was dismissed by the Federal Circuit Court of Australia (Judge Cameron).
- 3 The applicants appealed to the Full Court of the Federal Court of Australia (Edmonds, Buchanan and Flick JJ). The Full Court dismissed the appeal, holding that, in the absence of any challenge to the integrity of the results contained in the online verification system, it was open to the Tribunal to find that the first applicant had provided a bogus document. The Full Court also found that there was no substance to the applicants' complaint that the Tribunal was required to undertake further inquiries regarding the accuracy of the test results. The applicants now seek special leave to appeal against the orders of the Full Court.
- 4 The applicants do not have legal representation. The application therefore falls to be dealt with under r 41.10 of the High Court Rules 2004 (Cth).
- 5 No question of public importance falls for determination in this application, and an appeal to this Court would enjoy no prospect of success. The application is dismissed.
- 6 Pursuant to r 41.10.5, we direct the Registrar to draw up, sign and seal an order dismissing the application.

V.M. Bell
13 August 2015

S.J. Gageler